

C.I.A.'S CENSORSHIP BACKED ON APPEAL

Ruling Made on Article Highly
Critical of Agency Activity

By STUART TAYLOR Jr.

Special to The New York Times

WASHINGTON, Oct. 4 — A Federal appeals court today upheld the Central Intelligence Agency's censorship of sections of a highly critical article by a former agent concerning alleged C.I.A. activities in Iran, Latin America and Indonesia.

The three-judge panel ruled unanimously that "the C.I.A. classification and censorship scheme protects critical national interests." It said the agency's action was constitutional as applied to the article by Ralph W. McGeehee, the former agent. A censored version was published in The Nation, a liberal weekly of political commentary, in April 1981.

One judge, however, expressed concern that Reagan Administration policy and current law did not give enough weight to "the public's right to know" about possible abuses by the intelligence agency.

In another development today, the Senate Intelligence Committee unani-

Continued on Page A6, Column 1

Continued From Page A1

mously approved a bill to exempt certain C.I.A. files from search and review under the Freedom of Information Act, including files that involve covert action, counter-intelligence and high-technology spying devices.

The bill represents an unusual compromise between the agency, which had originally sought complete exemption from the act, and such opponents of Government secrecy as the American Civil Liberties Union. The agency's documents outside the specified ex-

emptions would remain subject to the Freedom of Information Act.

The decision by the United States Court of Appeals for the District of Columbia Circuit built upon a ruling by the Supreme Court in 1980 in a case involving another former C.I.A. agent, Frank W. Snepp Sr. The Supreme Court ruled the agency could require its agents to agree to disclosure of their writings, and that it could sue a former agent for publishing without submitting to such review.

In upholding the agency's censorship

of material it classified "secret" in the article Mr. McGeehee had submitted for review, the appeals court said the classification system's definition of "secret" information satisfied the First Amendment. The court said that in such cases "should defer to C.I.A. judgment as to the harmful results of publication," but should satisfy themselves "that the C.I.A. in fact had good reason to classify, and therefore censor, the materials at issue."

The decision may bolster the legal underpinning of the Reagan Administration policy requiring all Govern-

ment officials with access to high-level classified information to sign agreements, binding for the rest of their lives, to clear anything they write for publication in advance with the Government. The Reagan policy, adopted in 1981, was not directly at issue in the case.

Judge Patricia M. Wald, the author of the court's 25-page opinion, issued a brief separate statement expressing concern that Reagan Administration policy and "current constraints on our authority" do not "take account of any separate public right to know critical albeit classified facts about the activities of our intelligence agencies."

She suggested it was unfortunate that President Reagan had revoked a provision in an executive order by for-

mer President Carter that called for declassification of information when the public interest in disclosure outweighed damage to national security.

Mr. McGeehee, unlike Mr. Snepp, could not sue the agency for censoring his article, but he did sue for publication review. The article said the intelligence agency had used forgery and deceit to discredit popular revolts in El Salvador, Indonesia and Chile as Communist plots.

After publishing the censored version of his article, Mr. McGeehee sued the C.I.A. Director, William J. Casey, arguing the agency's actions violated the First Amendment right to freedom of speech and that the definition of secret was too broad and too vague.

272